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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

M.U.,

Petitioner,

v.

SUPERIOR COURT OF SANTA
BARBARA COUNTY,

Respondent.

CHILD WELFARE SERVICES,

Real Party in Interest.

2d Juv. No. B213166
(Super. Ct. No. J1285670)
(Santa Barbara County)

M.U. seeks extraordinary writ review of a December 29, 2008 juvenile court order denying reunification services and setting a permanent placement hearing for her daughter, R.P. (Welf. & Inst. Code, § 366.26; Cal. Rules of Court, rule 8.452.)¹ We deny the petition.

Facts and Procedural History

On October 27, 2008, Santa Barbara County Child Welfare Services (CWS) filed a dependency petition for failure to protect R.P. and sibling abuse. (§ 300, subds. (b) & (j).) Four days earlier, CWS received a referral from Child

¹ All statutory references are to the Welfare and Institutions Code.

Welfare Services in Arizona alleging caretaker absence/incapacity and general neglect. Petitioner had an open family maintenance case in Arizona but left the state with R.P. CWS believed that R.P. was at substantial risk of harm because petitioner had lost custody of three older children due to drug use and untreated mental illness

When CWS detained R.P., petitioner refused to submit to drug testing and admitted that she was not receiving substance abuse treatment or mental health counseling. Petitioner was living with the alleged father (P.P.), who had a criminal record and was a suspect in a child sexual abuse case.

At the October 28, 2008 detention hearing, petitioner left before the case was called. The trial court detained R.P. and set the matter for a contested jurisdiction/disposition hearing.

At a November 19, 2008 meeting with CWS, petitioner was argumentative and told the case worker, "I am so angry, I could punch a big hole in the wall." Petitioner claimed the case worker's notes were lies. When the case worker tried to interview the father, petitioner interrupted, argued, and threatened to have father deported. CWS scheduled a visit with R.P. and requested that petitioner provide a clean drug test before the visit. Petitioner, however, failed to show for the drug test or contact the case worker.

The jurisdiction report stated that petitioner had five other children who had been removed by Child Protective Services in Arizona. CWS recommended that R.P. be declared a juvenile court dependent and that petitioner not be offered family reunification services. (§ 361.5, subds. (b)(10) & (b)(11).) The disposition report stated that petitioner and father used methamphetamine daily, that petitioner admitted a substance abuse problem, and that petitioner did not want to undergo substance abuse treatment.

At the December 29, 2008 jurisdiction/disposition hearing, the jurisdiction report, the disposition report, and findings and orders from the Arizona

dependency cases were received into evidence.² Petitioner denied ever abusing her children and stated that Child Protective Services in Arizona set up a case plan when R.P. was born. Petitioner attended two months of anger management classes, left Arizona, and took R.P. to Santa Maria to live with father.

Petitioner said that she intended to deal with her substance abuse problem, but due to the holiday and stress, had ignored drug testing and was busy helping the child's father. Petitioner did not take a drug test before a scheduled visit and admitted missing a recent appointment with her therapist.

The trial court found, by clear and convincing evidence, that petitioner was a person described by section 361.5, subdivision (b)(10) and (b)(11) and had not made reasonable efforts to treat the problems that led to the removal of the other siblings, the termination of reunification services, and the severance of parental rights. The trial court noted that petitioner, by her own admission, was homeless and a chronic drug user. The court denied reunification services and set the matter for an April 27, 2009 permanent placement hearing. (§ 366.26.)

Acting in propria persona, petitioner filed an extraordinary writ petition alleging that the order is not supported by the evidence. The petition prays for reunification services, visitation and return of custody of the child, and "[t]emporary placement with Auntie until parents complete social services."

Discussion

We review for substantial evidence and are precluded from reweighing the evidence. (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.) Under this standard of review, we examine the whole record in a light most favorable to the findings and conclusions of the trial court, and indulge all legitimate inferences in favor of the order. (*Ibid.*)

Section 361.5, subdivision (b) provides that reunification services need not be provided to a parent if the trial court makes enumerated findings, supported by

² Father failed to appear at the hearing.

clear and convincing evidence. (*Id.*, at p. 217.) Subdivisions (b)(10) and (b)(11) concern findings of court-ordered termination of reunification services or the severance of parental rights over a sibling or half-sibling where the parent has not made a reasonable effort to treat the problems that led to the removal of the sibling or half-sibling. (*In re Ethan N.* (2004) 122 Cal.App.4th 55, 64.) "Once the [trial] court finds that one or more of these subparts of subdivision (b) applies, the court is prohibited from ordering reunification services unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child. (§ 361.5, subd. (c).)" (*Ibid.*)

It is uncontroverted that petitioner failed to reunify with her five other children, that parental rights were terminated, and that petitioner had not made a reasonable effort to treat the problems leading to the removal of the other children. The siblings were removed due to petitioner's drug abuse, homelessness, and failure to provide for their care and safety. The same problems necessitated R.P.'s removal. Petitioner was living with an alleged sexual predator, taking methamphetamine daily, refused to submit to drug testing, and was not receiving substance abuse treatment or mental health counseling. Nor did petitioner show that reunification services were in the best interests of the child. (§ 361.5, subd. (c); *In re Ethan N.*, *supra*, 122 Cal.App.4th at p. 64.)

The Legislature, in enacting section 361.5, has determined that in certain circumstances, providing reunifications services to a parent likely will be futile and not in the child's best interest. (*Riverside County Dept. of Public Social Services v. Superior Court* (1999) 71 Cal.App.4th 483, 488.) " 'Once it is determined one of the situations outlined in [section 361.5,] subdivision (b) applies, the general rule favoring reunification is replaced by a legislative assumption that offering services would be an unwise use of governmental resources. [Citation.]' " (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 744.)

In view of the evidence, the trial court reasonably concluded that petitioner had not made a reasonable effort to the treat the problems that led to the

removal of R.P.'s siblings and that it was not in the best interest of the child to provide petitioner reunification services.³

The petition for extraordinary writ is denied.

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YEGAN, J.

We concur:

GILBERT, P.J.

COFFEE, J.

³ CWS argues that the writ petition lacks a memorandum of points and authorities and supporting documents. (Cal. Rules of Court, rule 8.452(a)(3).) We agree and also deny the writ petition for this reason also. (See e.g., *Anthony D. v. Superior Court* 1998) 63 Cal.App.4th 149, 157-158 [facially inadequate petition summarily denied].)

James E. Herman, Judge
Superior Court County of Santa Barbara

M. U., in pro per, Petitioner.

No appearance for Respondent,

Dennis A. Marshall, County Counsel, County of Santa Barbara; Toni
Lorien, Deputy and Joel F. Block, for Real Part in Interest.